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March 14, 2018

Via ECF

Hon. P. Kevin Castel
United States District Judge
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street
New York, NY 10007-1312

Re: In re: SunEdison, Inc., Securities Litigation, No. 1:16-md-02742-PKC –
Horowitz v. SunEdison, Inc., No. 1:16-cv-07917-PKC

Dear Judge Castel:

We write on behalf of the Individual Defendants¹ and Underwriter Defendants² (together, “Defendants”) to ask that the court set May 18, 2018 as the deadline to answer the Second amended Consolidated Complaint (“complaint”) in the *Horowitz* action.

Pursuant to the Court’s December 19, 2016 Order, the time for parties to answer any of the complaints in the related actions was stayed pending further action of the Court. No other order by the Court addresses the time to answer the *Horowitz* complaint. The Court’s March 6, 2018 Order, granting in part and denying in part Defendants’ motions to dismiss the *Horowitz* complaint, did not lift that stay or set a deadline for Defendants to answer the remaining allegations in the complaint. It is Defendants’ position, therefore, that the stay remains in place until the Court sets a deadline to answer.

Plaintiffs, on the other hand, have taken the position that the stay is no longer in place and that the deadline to answer is governed by Federal Rule of Civil Procedure 12(a)(4)(A), which states that where a court denies a motion to dismiss, a responsive pleading is due fourteen days after notice of the court’s ruling. However, Rule 12(a)(4)(A) explicitly states that the court may set a different deadline.

¹ The Individual Defendants are Antonio R. Alvarez, Ahmad Chatila, Clayton Daley, Jr., Emmanuel Hernandez, Georganne C. Proctor, Steven Tesoriere, James B. Williams, Brian Wuebbels, Randy H. Zwirn, and Peter Blackmore.

² The Underwriter Defendants are Deutsche Bank Securities Inc., Goldman, Sachs & Co. LLC (f/k/a Goldman, Sachs & Co.), J.P. Morgan Securities LLC, Macquarie Capital (USA) Inc., MCS Capital Markets LLC, Merrill Lynch, Pierce, Fenner & Smith Incorporated, and Morgan Stanley & Co. LLC.

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Defendants asked for Plaintiffs' consent on the extension, but they refused absent Defendants' agreement to an overall schedule that the parties are starting to discuss. Accordingly, Defendants ask that the Court set the answer deadline in *Horowitz v. SunEdison, Inc.*, No. 1:16-cv-07917-PKC, as May 18, 2018, which is reasonable and appropriate for at least the following reasons:

- The complaint spans 231 pages. Defendants must analyze each sentence and provide careful accurate responses on behalf of each defendant (i.e., 10 individuals and 8 companies).
- Different defendants – who held various roles within our outside of SunEdison – may have different responses to each allegation and thus many portions of the complaint cannot be responded by broad acceptances or denials of allegations.
- Defendants will need to coordinate with each other to ensure accurate responses.
- Defendants must also consider for each allegation whether it is dismissed pursuant to the Court's March 6 Order, which carefully analyzed each of the challenged statements and reached different conclusions with regard to different statements.
- Defendants are not seeking to impede other progress in this litigation to await the filing of the answer.

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Accordingly, the Court's involvement is necessary to resolve the matter and Defendants respectfully request that the Court set May 18, 2018 as the deadline for Defendants to answer the *Horowitz* complaint.

Respectfully submitted,

By: /s/ Sara B. Brody

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cc: All Counsel of Record (via ECF)